

**CHAPTER NO. 528**

**SENATE BILL NO. 2275**

**By Trail, Kyle**

**Substituted for: House Bill No. 2290**

**By Coleman**

AN ACT to amend Tennessee Code Annotated, Section 38-6-106, relative to requests by certain officials for investigative records and background checks.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 38-6-106, is amended by deleting the section in its entirety and substituting instead the following:

(a) Any request for investigative records by the governor or supreme court chief justice shall be in writing and shall state specifically the reasons for such request. All such written requests shall be signed by the governor or supreme court chief justice and not the governor's or supreme court chief justice's agent or designee.

(b) The governor or supreme court chief justice is hereby authorized to request the Director of the Tennessee Bureau of Investigation to conduct a background investigation concerning any person who has asked or agreed to be considered by the governor or supreme court justice for appointment to a position of trust and responsibility, including, but not limited to, positions relating to homeland security. The chair of the nominating commission appointed pursuant to Section 38-6-101 is authorized to request a background investigation concerning any person who is under consideration by the nominating commission as a potential candidate for recommendation to the governor as a nominee for the position of Director of the Tennessee Bureau of Investigation. Such commission may contract with a private entity or the federal government to conduct such investigation. Upon the request of the governor or supreme court chief justice, the director shall conduct the investigation, which shall include fingerprint submissions of the potential appointee to both the Tennessee Bureau of Investigation and Federal Bureau of Investigation, and report the results to the governor or supreme court chief justice, either verbally or in writing, as the governor or supreme court chief justice may direct. The entity with which the nominating commission contracts shall report the results to the chair of the nominating commission, either verbally or in writing, as the chair of the nominating commission may direct. The potential appointee shall be required to pay the cost of the background check.

(c) All confidential information reported to the governor or supreme court chief justice pursuant to subsection (b) shall remain confidential. Any background investigation requested by a nominating commission appointed pursuant to Section 38-6-101, and any such background investigation delivered to the governor by the commission, shall be treated as confidential.

(d) The commission appointed pursuant to § 38-6-101 is authorized to contract with a private entity for other services, including but not limited to, recruiting and screening applicants. Names of applicants and related records shall remain confidential except to the extent such records are received by the

commission; provided that background investigations, and information which would remain confidential pursuant to § 10-7-504 if such applicants were employees of the state, shall remain confidential even after receipt by the commission and the governor.


(e) The authority granted by this section to the chief justice of the supreme court to request the Tennessee Bureau of Investigation to conduct background investigations is limited to investigations of persons applying or considered for the positions of:

- (1) Attorney general and reporter;
- (2) Clerk of the Supreme Court (Appellate Court Clerk);
- (3) Administrative Director of the Courts;
- (4) Executive Director, Tennessee Lawyers' Assistance Program;
- (5) Chief Disciplinary Counsel, Board of Professional Responsibility;
- (6) Executive Director, Tennessee Commission on Continuing Legal Education and Specialization; and
- (7) Executive Director, Tennessee Lawyers' Fund for Client Protection.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

**PASSED: April 12, 2004**

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 13<sup>th</sup> day of April 2004**

  
PHIL BREDESEN, GOVERNOR